

Form 1

NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION

Award No. 12642
Docket No. 12374
93-2-91-2-167

The Second Division consisted of the regular members and in addition Referee Elliott H. Goldstein when award was rendered.

PARTIES TO DISPUTE: (Brotherhood Railway Carmen/Division TCU
(
(CSX Transportation, Inc. (former Chesapeake &
(Ohio Railway Company)

STATEMENT OF CLAIM:

- "1. That the Chesapeake & Ohio Railroad Company (CSX Transportation, Inc.) (hereinafter 'carrier') violated the provisions of Rule 27 of the Shop Crafts Agreement between Transportation Communications International Union -- Carmen's Division and the Chesapeake & Ohio Railroad Company (CSX Transportation, Inc.) (revised June 1, 1969) and the service rights of Carman T. E. Huffman (hereinafter 'claimant') when the carrier failed to give the claimant a proper five (5) working days notice prior to furloughing him.
2. That accordingly, the claimant is entitled to be compensated for five (5) days pay, eight (8) hours each at the applicable Carman's rate for the carrier's violation of the aforementioned Agreement Rule."

FINDINGS:

The Second Division of the Adjustment Board, upon the whole record and all the evidence, finds that:

The carrier or carriers and the employe or employes involved in this dispute are respectively carrier and employe within the meaning of the Railway Labor Act as approved June 21, 1934.

This Division of the Adjustment Board has jurisdiction over the dispute involved herein.

Parties to said dispute waived right of appearance at hearing thereon.

On June 19, 1989, Carrier issued a notice at its Russell, Kentucky, facility advising that six positions would be temporarily abolished effective June 20, 1989, due to the Pittston Coal Company

strike. Claimant was one of those temporarily furloughed employees. According to the Carrier, the detrimental effects of the strike continued and drastically reduced the volume of coal shipments at the Newport News coal unloading terminal, thereby necessitating a further manpower reduction. Consequently, on July 19, 1989, Carrier issued another notice advising that four of the temporarily abolished positions would be permanently abolished effective July 27, 1989. These positions, including the Claimant's, remained abolished until Carrier determined that business at the facility returned to a level that justified the recall of those employees.

The instant claim by the Organization alleges that Carrier violated Rule 27 of the Agreement by not providing Claimant with five working days advance notice of the position abolishment. The Organization also argued that the strike had ended on July 19, 1989 and, therefore, Carrier should have recalled temporarily furloughed employees after the emergency condition allegedly no longer existed.

We find that Second Division Award 12633 is dispositive of this matter. In that case, precisely the same issue was presented by the same parties to this Board. In denying the claim, we found no Agreement support for the Organization's position. We adopt the reasoning and findings of that case and incorporate them herein.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Attest: Catherine Loughrin
Catherine Loughrin - Interim Secretary to the Board

Dated at Chicago, Illinois, this 12th day of January 1994.